

be additional to those already envisaged. We are satisfied, for instance, that the restoration of right of way amenities after construction will be effective, but during construction there will be a heavy impact on footpath amenity and on local traffic. We hope that more can be done on this and other issues. We agree that the viaduct should be of the best design. We heard suggestions of a design competition. We ask that option should be considered.

6. So that's the decision, and I hope the Clerk gets the word in the journal correct, which I can't pronounce. Mr Straker?

**Chiltern District Council, Buckinghamshire County Council, Aylesbury Vale  
District Council and The Chilterns Conservation Board (Cont'd)**

7. MR STRAKER QC: Thank you very much sir. We resume, therefore, from Monday evening, and Ms Kath Daly has taken her place by my side to give the next the next tranche of evidence. Can I just observe, sir, that it's D-A-L-Y, not as advertised immediately in front of her? Her slides begin at 1190, and can we go straight to 1190(2) please? Kath Daly, I should say is the Acting Chief Officer of the Conservation Board.

8. Here we see the Board being established by Parliament, and can you just help us with the role of the Board and its Parliamentary purpose?

9. MS DALY: Thank you. The Chilterns Conservation Board was established by Act of Parliament in order to conserve and enhance the Chiltern Hills area of outstanding natural beauty as I'm sure Members are by now familiar with. We have 27 Board members, of which eight are appointed by the Secretary of State and the remainder are appointed by Parish Councils and the 13 local authorities within the AONB. We work with land managers, farmers and communities and businesses and many partners, including Natural England, to deliver on our statutory purposes of conserving and enhancing the AONB. As the final witness for the four statutory bodies, I would like to say firstly that I will be brief; and secondly that the purpose of my evidence is to step back from the technical detail and reflect on the fundamentals of the case, and invite you Members to reflect on the significance of this case for the AONB and, indeed, for the nation as a whole.

10. MR STRAKER QC: Then we go to (3) please, the request of the Select

Committee which is for a continuous tunnel; and you then ask the question at (4), why should the AONB be protected, and you record at (5) that it matters to people and you've given illustration of the restoration of the River Misbourne. Perhaps you could just help, these volunteers are they, of people giving up their time freely to do the work?

11. MS DALY: That's correct; and indeed, this photo was taken just a few moments from the Church in Little Missenden, where those on the site visit will recall being greeted by many local residents who conveyed, I think with considerable passion, the extent to which they care about the AONB and indeed, their sense of pride in the AONB. I'd like to make the point with this photograph, that that passion translates day in, day out, to practical caring for and conserving the AONB. People really care about this place, and in this slide, is an example of people helping to restore one of the chalk rivers.

12. Might I also said that in posing the question again as to, 'Why should the AONB be protected?' that's an echo, you will recall of Mr Ray Payne's evidence where he addressed that question by pointing out to Members the legal status and designation of AONBs, the importance accorded to AONBs in public policy, in planning policy; and he also pointed out that AONBs have an equivalent landscape value to National Parks, and the same level of policy protection. The point I'd like to make is that the need to protect the AONB stems from all of those things, but also from the public good and the significance that the AONB has to people.

13. MR STRAKER QC: And the next slide refers to those people who live in and around the AONB, and here we've got some figures, I think you've identified: 37,000 households in the AONB; half a million people within 2km; and over 1 million people within 5km. That's a 15-year-old figure is it?

14. MS DALY: It is I'm afraid, we don't have the resources to analyse the latest census. But I think, obviously, we would expect the figures to have increased since 2001. The point I wanted to make here is obviously that the AONB is a major resource for very many people living within or very close to the AONB.

15. MR STRAKER QC: And I think the next slide, (7) shows that diagrammatically does it?

16. MS DALY: It does. So taking a wider view and stepping back, you can see the geographic location of the Chiltern Hills, which I'm sure you're all familiar with, but just to show it graphically: the proximity to urban areas, clearly Greater London, much of Greater London; but also we have many urban areas closer to home: Luton, Hemel Hempstead, Aylesbury, Slough, Reading and so forth. So it's to put it in its geographical context and make the point that this is a part of the significance of this place, in that it provides green land, if you like, for very many people. And I have a figure of around 10 million people living within a hour's travel of the AONB. I would like to make the point that as there are targets for housing growth in London – I believe it's something in the region of 40,000 new homes per annum over a 20-year period, the significance of this place, my point being, will only grow – and we know that access to such places, not only matters to people but it does us good. There are very well proven bodies of research making the link between public health and wellbeing and access to natural, green places.

17. MR STRAKER QC: Thank you. Then we see something more of the social value, do we, in (8)?

18. MS DALY: We do indeed, coming even further out, away from those who live within an hour, let's say, of the AONB, we have 55 million visitors a year. I wasn't going to dwell on this one, because I know colleagues have referred to it.

19. MR STRAKER QC: Then, can we go to (9) please, where we see a little of the background and Lord Silkin, Lewis Silkin as he then was, introducing the National Parks and access to the countryside, drawing attention to the fact that the Bill, now an Act, was a people's charter; a people's charter for the open air, for the hikers, for the ramblers, for everyone who loves to get out in the open air and enjoy the countryside?

20. MS DALY: Thank you, I wanted to just very briefly invite Members to reflect back to the origins of these nationally-designated landscapes in this country, going back to the 1940s; starting with the Lord Justice Scott Report in 1942, leading directly to this Act, which Lewis Silkin, who was then the Minister for Housing and Town Planning, introduced in this way. The point I wanted to draw from this was that, special places matter to people today, the Chilterns matter to people today and it has long been seen to matter in this country. I feel that the sentiments expressed in this very place back in

1949 are as valid today if not more so; and I find it quite striking that amidst all that was happening in the 1940s, that places such as the Chilterns were understood then to matter to this extent.

21. MR STRAKER QC: And to be used for the seeking to promote happiness for ordinary men and women?

22. MS DALY: Indeed.

23. MR STRAKER QC: And then (10) please, you ask the question, 'Does the proposed scheme conserve and enhance the AONB?' and you use that particular language, 'conserve and enhance' because...?

24. MS DALY: Because that is the duty on the Conservation Board, our statutory purpose being to conserve and enhance. But it is also – and perhaps move to the next slide?

25. MR STRAKER QC: Yes, (11) please?

26. MS DALY: It is also – as Members will by now be familiar – the duty upon public bodies, including the Ministers of the Crown, the Department for Transport and statutory undertakers for railways to have regard to the purpose of conserving and enhancing the AONB. And it's with regard to the fulfilment of this duty that we find ourselves – the four statutory partners – find ourselves in considerable disagreement with the promoter. It's partly on this basis that we promote an alternative design for an edge-to-edge tunnel through the Chilterns.

27. MR STRAKER QC: Thank you, then we go on to (12) please, you ask the question whether there's been an understatement as to the harm to the AONB. The coppice in question, it's slightly obscured by the reference A1190(12), that is which coppice?

28. MS DALY: That's Sibley's Coppice which those on the visit will recall one of the ancient woodlands partly destroyed by the scheme. You'll also see in the photo, mature hedgerows, mature hedgerow trees and agricultural land, also to be lost, by way of construction.

29. MR STRAKER QC: Thank you, and then we go to (13) please?

30. MS DALY: Which is the response to the question posed: ‘Does the promoter understate the harm to the AONB?’ This is really important; as Members will be aware, Natural England is the government’s statutory advisor on landscape matters and also on the designation of AONBs. In Natural England’s view, the significance of the effects on the AONB of this scheme have been understated.

31. MR STRAKER QC: Perhaps we can just pause there to observe, if we go to P7413(8)? Included within the material for the Committee has been placed the relevant annexe, is it, to the letter from Natural England commenting upon these matters and drawing attention to the Chilterns? And if we go to the following page, 7413(9), at 1.9, if we can perhaps just highlight 1.9 and blow that up so it’s slightly easier to read and roll down a bit, we can see that there’s a reference to the ‘Chilterns having been designated... great weight should be given... national policies to protect the landscape and scenic beauty of the whole of the AONB’. We’ve heard a suggestion to the effect, ‘Well, only a part is affected by HS2 as proposed’. Can you just help the Committee as to your view, the Board’s view, and Natural England’s view as to the sort of argument, ‘Well, we can nibble away at the AONB without harming the AONB’?

32. MS DALY: Thank you, I think Natural England put it very well in this final part of paragraph 1.9. I think also, my colleague, Bettina Kirkham conveyed this point quite well also, you will recall. But we are really rather concerned about the – might I describe it – a somewhat reductionist approach having been taken by the promoter to making this case that, ‘It’s okay because...’ – I grossly paraphrase, forgive me – ‘Only a tiny proportion of various special features of the AONB are to be lost’. We don’t accept this as an approach, nor do Natural England, as they articulate here.

33. MR STRAKER QC: Well, then we can go back I think from there to A1190(14) please?

34. MS DALY: So a further quote from the response from Natural England to the Environment Statement, and their conclusion that the effect on the AONB’s natural beauty, landscape and natural beauty, is a major long-term adverse effect. This is at odds with the view of the promoter as expressed in the Environment Statement.

35. MR STRAKER QC: Then you move, I think, to the promoter's view, do you, at 1190(15)?

36. MS DALY: Thank you. Here I'm quoting from the petition response document to the Conservation Board. In the next series of four slides, I'm just seeking to illustrate with three examples – there are three photographs coming up, this being the first. I'm not seeking any kind of forensic analysis of the Environment Statement, because I understand that's broadly been accepted, but I am seeking to put the point that these matters are a matter of judgement. The question of the harm and the weight that should be given to the harm are matters of judgement. We will all come to a different view on that. But I seek to give you examples to explain why the Conservation Board, the statutory bodies and Natural England have cast doubt on some of the judgements reached and to ask the Committee therefore to reach a view, in terms of how much weight should be given to the harm.

37. My first of these illustrations is this visualisation of the Wendover Dean viaduct, from Kings Lane – which is just beyond Kings Ash, which the visit reached Kings Ash but not Kings Lane – and the question, 'Does the promoter understate the harm', is what I'm asking? This structure – half a kilometre long, 18 metres high – within the AONB. Please note that you can see both sides of the valley, and therefore the viaduct will be visible over long distances and from many viewpoints. I ask you to consider whether within 60 years, the visual effect of this structure will no longer be significant. In our view, this is very questionable.

38. MR STRAKER QC: Thank you. Then we look onto Natural England's view, I think, do we at (16)?

39. MS DALY: Indeed, and Natural England were not directly referring to the example I've just given you, but nonetheless as a general point, I think they express it well to say that while there may be a change in people's perceptions over the 60 years, it doesn't alter the fundamental effect on the natural beauty of the AONB. My colleague Katherine Murray made some points around - I would use the phrase, 'future proofing' – around ensuring that we pass on the legacy to the next generation so that they have the options to concern the natural beauty of a place, rather than having these impacts now; when there is a realistic alternative.

40. Again, at the end of this quote, Natural England call for more appropriate mitigation.

41. MR STRAKER QC: Thank you, and then (17), you touch upon the promoter's view, which is to the effect of areas with a high level of tranquillity won't be noticeably affected by the construction giving a sole exception, which they suggest, and you give the source for that quote, I think. You have a comment upon that?

42. MS DALY: Yes, indeed. And just to orientate Members: those who were on the visit from one of your first stops in David Lidington's constituency was at Kings Ash, the white house in the distance here is the house where you stood –

43. MR STRAKER QC: Is that just there?

44. MS DALY: It is, yes. With some rather agitated residents I seem to recall. And you looked down from there – it's usually a far more tranquil spot than it was on that day! You looked down from there, two fields or so down, to the site of the Wendover Dean viaduct, where that would be constructed. And, this is my second example, by way of illustration, of a location where we take a different view to that of the promoter, because this is not a hidden fold in the landscape; yet this location, this quiet and historic lane, is two fields from the Wendover Dean viaduct, the image you saw two slides earlier. This is an example of a peaceful location, medium-high tranquillity according to CPRE, where the tranquillity be indubitably be substantially diminished through the construction of that viaduct. Noise, lighting, visual impacts of construction. So, another example of taking issue; there is a judgement to be made. Is that statement correct that only one localised fold would be noticeably affected? We think not.

45. MR STRAKER QC: And then 1190(18) please?

46. MS DALY: And my third illustration and response to the question is whether the harm is understated. So this view is taken from Grove Farm, looking across to The Hale, and the streetlights there are the end of the Wendover bypass. You'd see from here the route on a high embankment with the Small Dean viaduct to the right. This is the middle of the area referred to in this quote as the most developed section of this part of the AONB. Perhaps that's technically true, but my understanding of that statement is that the promoter is implying with this quote that this section of the route, in the AONB,

on embankment or viaduct, happens to be in a part of the AONB which is already considerably developed. I would question this implication, this description. They claim this is a developed area; we say it's a rural landscape. There's room for doubt, there's room for discussion.

47. MR STRAKER QC: And the character of the development referred to, is that this residential – is it resident there?

48. MS DALY: There's just isolated houses there; and as I say, you have the end of the Wendover bypass, indeed you do have a road. However, it's taking the bigger picture rather than, as I say, this reductionist approach.

49. MR STRAKER QC: Then we come to (19) please, where you ask the question whether further mitigation is required?

50. MS DALY: And again, here, I draw on Natural England's response to the Environment Statement. They were unequivocal on this point, and they further say that, further mitigation should be of a level appropriate to a national important landscape, and the four statutory bodies would agree.

51. MR STRAKER QC: You ask that question again in 1190(20)?

52. MS DALY: And we believe that the proposed scheme gives insufficient weight to the harm which will be caused by the AONB and that, in doing so, it's our belief that it fails to fulfil the section 85 duty of regard on the public bodies.

53. MR STRAKER QC: Conservation and enhancement?

54. MS DALY: The duty to have regard to the conservation of the purposes of designation of the AONB.

55. MR STRAKER QC: That's (20). (21), we get to your request of the Select Committee please?

56. MS DALY: Which you know by now what we're requesting: a continuous tunnel under the Chilterns. I fear to think how many times you've heard this. The evidence of my colleagues; the technical evidence that's gone before me, strikes at the technical feasibility of an extended tunnel, and also through the evidence of Bettina Kirkham and



Katherine Murray, at the harm to the landscape. I've given you some very brief illustrations, giving you a perspective of that visually. In our view, as the four statutory bodies, if this is to be built, then the only viable way to protect the landscape of the AONB for the future is through a continuous tunnel.

57. MR STRAKER QC: We've seen, of course, how Natural England have said that further mitigation is required. As far as further mitigation is concerned, you align that with the effective way to conserve and enhance being a tunnel do you?

58. MS DALY: Indeed.

59. MR STRAKER QC: Thank you. Then (22)?

60. MS DALY: So, I've spoken really, I suppose, about social good, about the public good of the AONB. And I refer here to the foreword of the AONB management plan, written by former Minister Lord de Mauley in which I think he encapsulates this spirit of the public good provided by AONBs, perhaps an echo of Lewis Silkin's words.

61. MR STRAKER QC: Thank you. Then you come to 1190(23), the long view?

62. MS DALY: And this is my last slide: the point I want to make, which perhaps – forgive me if I'm repeating myself – but our feeling is that despite the cuttings, the cut and cover green tunnel, the noise bands and all of the other proposed mitigation west of Mantle's Wood, as the route cuts through the AONB, above ground, this railway will be an unashamedly alien intervention in the landscape of the AONB. There's little doubt about that. The question is, what weight should be given to the harm that arises from this. Our view, clearly, is that great weight should be given; more than currently proposed.

63. You have a practical option before you to deal with the harm and preserve the landscape for the future, and I'd like to leave you with this slide, and in your deliberations, invite you to consider the importance of the AONB as an asset for the nation; and that it's in your hands to help to continue to protect this place for future generations.

64. MR STRAKER QC: Thank you very much. Just in that context, though, we can see can we – is it a two-carriage Chilterns railway train?

65. MS DALY: It is indeed, on the Chiltern Mainline.
66. MR STRAKER QC: That's the Chiltern Mainline, serving the Chilterns and dropping passengers off and so forth.
67. MS DALY: They can get off.
68. MR STRAKER QC: Thank you very much. That concludes that set of slides. I should just mention that at A1191 and A1192(1), Sir, you have letters from the Aylesbury Vale District Council and the Buckinghamshire County Council. I don't need to trouble you with those, but they plainly express the support of those bodies. Thank you very much, Sir. I'm sorry I undershot the 45 minutes that I indicated to you earlier.
69. CHAIR: I noticed Martin Temple sitting at the back of the room the other day watching the things unfold. Mr Mould do you want to...?
70. MR MOULD QC (DfT): Just one or two, yes thank you, good morning. You may recall that on Monday I showed the Committee and Mr Payne paragraph 116 of the National Planning Policy Framework, if you remember that; I'm sure you're familiar with it.
71. MS DALY: Indeed.
72. MR MOULD QC (DfT): And we agreed that the need for the railway to cross the Chilterns, broadly along the alignment which is shown on the plans, having been established by a Second Reading, there was a balance to be struck in giving effect to that policy between the impact of the railway upon the natural beauty of the Chilterns and the cost of mitigating that impact through whatever means of mitigation is selected for that purpose?
73. MS DALY: Indeed.
74. MR MOULD QC (DfT): And I don't understand your evidence to be seeking to be move away from that proposition?
75. MS DALY: I think I would elaborate on that, to say that – as I've said throughout my presentation – that whilst those tests may have been gone through, the three bullets